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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,682	12/17/2001	Raymond Jay Harper	BS01-327	8075
7590	01/23/2006		EXAMINER	
WITHERS & KEYS, LLC P.O. Box 71355 Marietta, GA 30007-1355			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2145	
DATE MAILED: 01/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/015,682	HARPER ET AL.
	Examiner	Art Unit
	Jeffrey R. Swearingen	2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 October 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-43 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. One of ordinary skill in the art would not know whether an "interior" network element as claimed in claim 1 was located within the confines of a network, a network element within another server or computer, or a network element located within a room.
4. The term "rolling time period" is a relative term which renders the term indefinite. The term "rolling time period" in claims 1 and 32 is a relative term which renders the claim indefinite. The term "rolling time period" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Applicant's statement in paragraph 0017 of the specification failed to provide an adequate standard for ascertaining the relative degree of the term.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Leong et al. (U.S. Patent No. 5,996,010).
7. In regard to claim 1, Leong disclosed

*an interior network element;* (column 6, lines 15-22)

*an edge switch coupled to the interior network element, wherein the edge switch is a first point of access to a network for communication by a customer; (column 6, lines 15-22)*

*a trap log resident in the edge switch, wherein the trap log sends an alarm to a management station to alert for specified network events; (column 14, lines 8-12)*

*a first communications link coupled to the interior network element, the first communications link to carry communications to and from a customer via the edge switch; (column 6, lines 23-43) and*

*a computer, the computer coupled to the network element, the computer including a processor, another trap log and a memory, the memory storing a plurality of instructions to be executed by the processor, the plurality of instructions including instructions to*

*receive a network element identifier from a user, the network element identifier corresponding to the network element, (column 13, lines 51-65)*

*receive a network element fault information processing instruction; (column 13, lines 51-65)*

*receive network element fault information from at least the alarms from the trap log and another trap log; (column 14, lines 1-12) and*

*process the network element fault information for display to the user based at least in part on the received network element fault information processing instruction; (column 15, lines 1-6)*

*store the network element fault information into a network fault file wherein the network element fault file contains network element fault information collected over a rolling time period. (column 15, lines 1-6; the stored file is inherent to the graphic display of the monitored network parameter)*

8. In regard to claim 2, Leong further disclosed

*the plurality of instructions include instructions to prompt a user to enter the network element identifier. (column 12, lines 21-30)*

9. In regard to claim 3, Leong further disclosed

*the plurality of instructions include instructions to prompt a user to enter the network element fault information processing instruction. (column 12, lines 21-30)*

10. In regard to claim 4, Leong further disclosed

*the instructions to receive network element fault information include instructions to query for the network element fault information based at least in part on the received network element identifier.*  
(column 14, lines 32-42)

11. In regard to claim 5, Leong further disclosed

*the instructions to process the network element fault information include instructions to identify network element fault information corresponding to one or more network element faults.* (column 14, lines 46-64)

12. In regard to claim 6, Leong further disclosed

*the instructions to process the network element fault information include instructions to summarize the identified network element fault information corresponding to one or more network element faults.* (column 15, lines 1-6)

13. In regard to claim 7, Leong further disclosed

*the instructions to process the network element fault information include instructions to determine a number of network element faults corresponding to one or more chronological periods.* (column 14, lines 46-64)

14. In regard to claim 8, Leong further disclosed

*the instructions to process the network element fault information include instructions to determine a number of first network element faults and a number of second network element faults, the first network element faults being different from the second network element faults.* (column 14, lines 13-31)

15. In regard to claim 9, Leong further disclosed

*the network element fault information is associated with one or more of the network element and the communications link.* (column 14, lines 8-12)

16. In regard to claim 10, Leong further disclosed

*the network element fault information is associated with the communications link.* (column 14, lines 46-64)

17. In regard to claim 11, Leong further disclosed

*a server, the server coupled to the network element, the server including the network element fault information.* (column 6, lines 12-43)

18. In regard to claim 12, Leong further disclosed  
*the network element is a switch; and the communications link includes one or more communications circuits.* (column 6, lines 12-43)
19. In regard to claim 13, Leong further disclosed  
*a network management server, the network management server coupled to the switch, the server including the network element fault information.* (column 6, lines 12-43)
20. Claim 14 is substantially the same as claim 6.
21. In regard to claim 15, Leong further disclosed  
*the one or more network element faults are selected from the group consisting of transitions to down state, transitions to up state, and frame errors.* (column 14, lines 46-64 established the ability to monitor frames and column 14, lines 29-31 established the ability to detect errors; the detection of frame errors comes from these two elements)
22. Claim 16 is substantially the same as claim 8.
23. Claim 17 is substantially the same as claim 1.
24. Claim 18 is substantially the same as claim 1.
25. Claim 19 is substantially the same as claim 6.
26. Claim 20 is substantially the same as claim 7.
27. Claim 21 is substantially the same as claim 1.
28. In regard to claim 22, Leong further disclosed  
*receiving a network element identifier includes receiving one or more of a switch identifier, a circuit identifier, and a logical port identifier.* (column 13, lines 51-67)
29. Claim 23 is substantially the same as claim 5.
30. In regard to claim 24, Leong further disclosed  
*the network element identifier corresponds to at least one of a circuit and a logical port.* (column 13, lines 51-67)

31. In regard to claim 25, Leong further disclosed  
*the network element fault information processing instruction is an instruction to display transitions to a down state. (column 14, lines 46-64)*
32. In regard to claim 26, Leong further disclosed  
*the instruction to display transitions to a down state includes an instruction to display a number of transitions to a downstate occurring during a chronological period. (column 14, lines 46-64)*
33. In regard to claim 27, Leong further disclosed  
*the chronological period is selected from the group consisting of a minute, an hour, a plurality of hours, a day, a plurality of days, a week, a plurality of weeks, a month, a plurality of months, a year, and a plurality of years. (column 14, lines 46-64, column 15, lines 1-6)*
34. Claim 28 is substantially the same as claim 15.
35. In regard to claim 29, Leong further disclosed  
*the instruction to display a number of frame errors includes an instruction to display a number of frame errors occurring during a chronological period. (column 14, lines 46-64; column 15, lines 1-6)*
36. In regard to claim 30, Leong further disclosed  
*processing the network element fault information based at least in part on the received network element fault information includes generating a data record, the data record including a plurality of data entries, each data entry of at least a subset of the plurality of data entries including a chronological identifier field and a network element fault indicator field, the chronological identifier field to store a chronological identifier, the network element fault indicator field to store a network element fault indicator. (column 15, lines 16-57)*
37. In regard to claim 31, Leong further disclosed  
*the network element fault indicator is a numeric value. (column 15, lines 16-57)*
38. Claim 32 is substantially the same as claim 1. The *network element fault information processing criteria provides the user with an option to choose between a fixed time period and a rolling time period* was disclosed in column 12, lines 21-30. *The network element fault data record is a buffer file containing*

*network element fault information collected over one of the fixed time period and the rolling time period is inherent to the graphic display of the monitored network parameter in column 15, lines 1-6.*

39. In regard to claim 33, Leong further disclosed

*the network fault information processing criteria includes one or more network element fault types.* (column 13, lines 51-67)

40. Claim 34 is substantially the same as claim 30.

41. Claim 35 is substantially the same as claim 1.

42. Claim 36 is substantially the same as claim 5.

43. In regard to claim 37, Leong further disclosed

*the network element is selected from the group consisting of a switch, a core switch, an edge switch, a circuit, a permanent virtual circuit, a permanent virtual path, a logical port, and a customer premises equipment.* (column 6, lines 13-22)

44. Claim 38 is substantially the same as claim 1.

45. Claim 39 is substantially the same as claim 5.

46. Claim 40 is substantially the same as claim 37.

47. Claim 41 is substantially the same as claim 1.

48. Claim 42 is substantially the same as claim 5.

49. Claim 43 is substantially the same as claim 37.

### ***Response to Arguments***

50. Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new grounds of rejection.

51. The previous rejections under 35 U.S.C. 112, second paragraph are withdrawn.

### ***Conclusion***

52. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Chisholm et al.	U.S. Patent No. 6,978,302
Leong et al.	U.S. Patent No. 6,393,475
Krishnamurthy et al.	U.S. Patent No. 6,389,464
Barker et al.	U.S. Patent No. 6,363,421
Tse et al.	U.S. Patent No. 6,292,099
Cidon et al.	U.S. Patent No. 6,292,330
Spencer	U.S. Patent No. 6,253,243
Hagiuda et al.	U.S. Patent No. 6,182,225

53. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

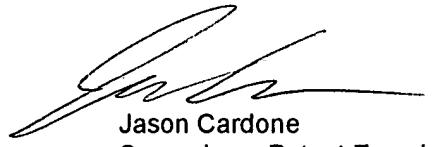
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145